

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #10	CCRB Case #: 201800485	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/18/2018 1:00 PM	Location of Incident: Nostrand Avenue between Madison Street and Monroe Street	Precinct: 79	18 Mo. SOL 7/18/2019	EO SOL 7/18/2019	
Date/Time CV Reported Fri, 01/19/2018 1:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/19/2018 1:47 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ronald Chiriboga	13300	955814	079 PCT
2. POM Nicola Apadula	26616	954496	079 PCT
3. POM Randy Sanchez	05340	956231	079 PCT
4. An officer			079 PCT
5. Officers			079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ronald Chiriboga	Abuse: Police Officer Ronald Chiriboga stopped § 87(2)(b)	
B.POM Nicola Apadula	Abuse: Police Officer Nicola Apadula stopped § 87(2)(b)	
C.POM Randy Sanchez	Abuse: Police Officer Randy Sanchez stopped § 87(2)(b)	
D. An officer	Abuse: An officer searched § 87(2)(b)	
E. An officer	Abuse: An officer frisked § 87(2)(b)	
F. Officers	Abuse: Officers searched the vehicle in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		

## Case Summary

On January 19, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

At approximately 2:35 p.m. on January 18, 2018, § 87(2)(b) parked his car along Nostrand Avenue, between Madison Street and Monroe Street, in Brooklyn. He sat in his car for several minutes, playing a game on his cell phone. A group of uniformed officers, identified by the investigation as PO Ronald Chiriboga, PO Nicola Apadula and PO Randy Sanchez of the 79<sup>th</sup> Precinct, approached § 87(2)(b)'s vehicle. The officers told § 87(2)(b) that he had an active warrant. One of them displayed a photograph of § 87(2)(b) on a cell phone to prove that he did have a warrant. The officers allegedly asked § 87(2)(b) to exit his vehicle (**Allegations A, B and C – Abuse of Authority, stop** – § 87(2)(g)). Once § 87(2)(b) exited the vehicle, one of the officers allegedly reached into one of § 87(2)(b)'s pockets and removed his wallet (**Allegation D – Abuse of Authority, search** – § 87(2)(g)). The same officer allegedly frisked § 87(2)(b) on his torso, waistband and legs (**Allegation E – Abuse of Authority, frisk** – § 87(2)(g)). § 87(2)(b) was then escorted to the rear of his vehicle, where a different officer displayed the same photograph of § 87(2)(b) on his cell phone. While § 87(2)(b) was at the rear of the vehicle, officers allegedly entered § 87(2)(b)'s car through the driver's seat and the front passenger's seat (**Allegation F – Abuse of Authority, vehicle search** – § 87(2)(g)). Nothing was removed from § 87(2)(b)'s car. After this search, the officers told § 87(2)(b) that they were not going to arrest him for his alleged warrant, and advised him to address the warrant on his own time. The officers then returned to their vehicle and drove away. § 87(2)(b) later went to the Kings County Criminal Court, where he learned that he did not have any active warrants.

§ 87(4-b), § 87(2)(g)

No video footage was found for this incident.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Ronald Chiriboga stopped § 87(2)(b)**

**Allegation (B) Abuse of Authority: Police Officer Nicola Apadula stopped § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Randy Sanchez stopped § 87(2)(b)**

§ 87(2)(b) was interviewed at the CCRB on January 24, 2018 (See Board Review #01: § 87(2)(b)'s Statement). He stated that he parked his vehicle in front of a liquor store located along Nostrand Avenue between Madison Street and Monroe Street. He did not have any passengers in his vehicle, but his two dogs were sitting in the back seat. The engine of § 87(2)(b)'s vehicle was turned off. § 87(2)(b) intended to go into the store to buy alcohol. Before he exited his vehicle, he saw another civilian on the sidewalk that he recognized. § 87(2)(b) did not know the other civilian's name, but stated that he goes by the nicknames § 87(2)(b),” and that he is often found on that corner. The other civilian approached § 87(2)(b)'s vehicle. The two of them spoke for a few minutes before the other civilian walked away. § 87(2)(b) denied that they

made contact or exchanged any items. After the other individual left, § 87(2)(b) sat in the driver's seat of his vehicle and played a game on his cell phone. While he did so, a group of four plainclothes officers walked up to § 87(2)(b)'s vehicle. § 87(2)(b) described them as three white males and a black male. The investigation identified three of these officers as PO Ronald Chiriboga, PO Nicola Apadula and PO Randy Sanchez of the 79<sup>th</sup> Precinct. § 87(2)(b) later noticed that the officers had arrived at the location in a black sedan.

§ 87(2)(b) did not recognize any of them from any previous interactions. Despite this, one of the white officers greeted § 87(2)(b) by name and asked if he remembered him. § 87(2)(b) told the officer that he didn't recognize him. The officer told § 87(2)(b) that he had an active warrant. § 87(2)(b) told the officer that he did not have any warrants. The officer took out a cell phone and displayed a photograph of § 87(2)(b). The photograph appeared to be from § 87(2)(b)'s driver's license. The officer told § 87(2)(b) that he would not arrest him for the alleged open warrant, but that he had to exit the vehicle. § 87(2)(b) complied and stepped out of his vehicle. Later, one of the other white male officers also told § 87(2)(b) that he had an active warrant, and showed § 87(2)(b) the same old photograph on his cell phone. § 87(2)(b) asked this second officer when the warrant had been issued. The second officer replied that he did not have access to that information. The officers eventually released § 87(2)(b) without arresting him or issuing a summons. Later that day, § 87(2)(b) went to the Kings County Criminal Court in Brooklyn to find out if he had a warrant. § 87(2)(b) was told there that there were no active warrants issued for him.

§ 87(2)(b) participated in a photo viewing session on June 15, 2018. He was shown photo arrays that contained PO Chiriboga, PO Apadula, PO Sanchez and Sgt. Morrison. § 87(2)(b) did not recognize any of the officers depicted in the arrays (See Board Review #02-03: Photo Arrays).

§ 87(2)(b) did not know the other civilian's name or contact information. He noted that the other civilian is known in the area, and can often be found along the block where he was stopped. On January 29, 2018, the field team traveled to Discount Wine and Liquor, the liquor store that § 87(2)(b) parked near. A manager there, "§ 87(2)(b)" informed them that he is familiar with an individual in the area who goes by the nickname "§ 87(2)(b)". He agreed to pass the undersigned investigator's business card to this individual. To date, the other civilian has not contacted the CCRB.

No Stop, Question and Frisk Reports were generated in regards to this incident (See Board Review #04: Stop and Frisk Report Index). No ICAD events were found that corresponded to this incident (See Board Review #05: Resource Recap Log).

This incident occurred in the confines of the 79<sup>th</sup> Precinct. The only officers listed on the 79<sup>th</sup> Precinct's roll call for plainclothes assignments were the Anti-Crime Team, which consisted of PO Chiriboga, PO Apadula, PO Sanchez and their supervisor, Sgt. Okera Morrison. All four officers were on duty at the time of the incident (See Board Review #05: Precinct Roll Call). PO Chiriboga and PO Apadula are white males. PO Sanchez is a Hispanic male. Sgt. Morrison is a black male. Reviews of the Brooklyn North Gang Squad and Patrol Borough Brooklyn North Specialized Units roll calls found that these units did not have officers on duty at the time of the incident (Board Review #07-08: Roll Calls). A review of the Brooklyn North Narcotics' 79<sup>th</sup> Precinct Module roll call found that four officers from that unit were on duty at the time, but were

not assigned to patrol assignments. The four officers consisted of three white males and one Asian male. No black males were working with the module at the time of the incident (See Board Review #09: Narcotics Roll Call).

A search of the BADS database found that the 79<sup>th</sup> Precinct was the only command that made arrests within the confines of the precinct at the time of the incident (See Board Review #10: Arrest Records).

A warrant audit found that PO Chiriboga conducted a warrant check on § 87(2)(b) at 2:35 p.m. on January 18, 2018. PO Chiriboga used a department-issued smartphone to conduct the check (See Board Review #11: Warrant Audit).

PO Chiriboga and PO Apadula were interviewed at the CCRB on March 1, 2018. PO Sanchez was interviewed on April 3, 2018 (See Board Review #12-14: MOS Statements). At the time of the incident, the officers were riding together in a black sedan. None of the officers recalled the incident. None of them recalled what they were doing at the time of the incident or where they were. They did not recall participating in any vehicle stops. They did not recognize § 87(2)(b)'s name or photograph. They did not recall interacting with any individuals who had open warrants. PO Chiriboga and PO Apadula stated that officers are required to arrest any individuals that they encounter who have active warrants. PO Sanchez stated that officers are allowed to exercise discretion in determining whether to arrest individuals with active warrants. All three officers stated that they were working together without Sgt. Morrison. While PO Chiriboga and PO Sanchez did not account for Sgt. Morrison's whereabouts, PO Apadula stated that Sgt. Morrison was at training at the time of the incident.

When shown the results of the warrant audit, which indicated that PO Chiriboga ran a check on § 87(2)(b) at the time of the incident, the officers each stated that they had no recollection of PO Chiriboga doing so. None of the officers knew why PO Chiriboga ran the check. PO Chiriboga stated that it was possible that he had lent his smartphone to another officer, and that this other officer might have used it to conduct the check. PO Chiriboga did not specifically recall giving access to his smartphone to another officer on January 18, 2018.

Sgt. Morrison was interviewed at the CCRB on May 3, 2018 (See Board Review #15: Sgt. Morrison's Statement). He also did not recall the incident. Sgt. Morrison stated that he attended an all-day training session at the Police Academy on January 18, 2018. The training lasted from 7:00 a.m. until 3:44 p.m. Sgt. Morrison ended his tour as soon as he left the training. He denied that he went on patrol or that he worked with PO Chiriboga, PO Apadula or PO Sanchez. He denied participating in any vehicle stops. Sgt. Morrison's memo book confirms that he was at training at the Police Academy (See Board Review #15: Sgt. Morrison's Memo Book).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: An officer searched § 87(2)(b)**

**Allegation (E) Abuse of Authority: An officer frisked § 87(2)(b)**

**Allegation (F) Abuse of Authority: Officers searched the vehicle in which § 87(2)(b) was an occupant.**

At the time of the incident, § 87(2)(b) was wearing a vest over a jacket. § 87(2)(b) described the officer who asked him to exit his vehicle as a stocky 5'7" white male with blond hair. Once § 87(2)(b) exited his vehicle, this officer reached into the pockets of § 87(2)(b)'s vest and removed § 87(2)(b)'s wallet along with cash, several loose receipts and lottery tickets. The officer briefly examined these items before placing them back in the vest pockets. He then frisked § 87(2)(b) by patting the exterior of the vest. The officer opened up § 87(2)(b)'s vest and reached into the breast pocket of § 87(2)(b)'s jacket. He removed several additional loose receipts and lottery tickets from the breast pocket, examined them, and then returned them to the breast pocket. The officer then continued frisking § 87(2)(b) by patting his waistband, legs, hips and backside. No other items were removed from § 87(2)(b)'s person besides the wallet and the various papers.

The officer who frisked and searched § 87(2)(b) walked him to the rear of his vehicle. There, two other plainclothes officers spoke to § 87(2)(b). § 87(2)(b) described one of them as a heavyset 6' white male with brown hair and a beard, and the other as a 5'9" light-skinned black male. § 87(2)(b) spoke to these two officers directly. As he did so, he realized that he did not know where the other two officers were. § 87(2)(b) turned around and saw that the other two officers were searching his vehicle. One was the officer who had frisked and searched him earlier. The other was a slim, 5'6" white male officer with dark hair. These officers had opened the front doors of § 87(2)(b)'s vehicle and were leaning inside over the front seat. § 87(2)(b) only saw these officers for a brief moment before turning back around to face the officers at the rear of the vehicle. He did not see what specific actions these officers took inside of his vehicle. The two officers exited

§ 87(2)(b)'s vehicle and joined him at the rear of the vehicle a short time later. § 87(2)(b) was not aware of any of the officers removing any items from his vehicle.

As mentioned earlier, § 87(2)(b) was shown photo arrays depicting PO Chiriboga, PO Apadula, PO Sanchez and Sgt. Morrison. He did not recognize any of the officers shown in the arrays.

None of the officers interviewed recalled this incident. They did not recall searching or frisking § 87(2)(b) or any other civilians. They did not recall conducting any vehicle searches. PO Chiriboga, PO Apadula and PO Sanchez all stated that they were on patrol at the time, but did not recall this particular incident. Sgt. Morrison denied that he went on patrol at the time of the incident, stating instead that he was in training. PO Chiriboga is a 5'7", 230-pound white male with brown hair. PO Apadula is a 5'7", 195-pound white male with brown hair. PO Sanchez is a 5'9", 185-pound light-skinned Hispanic male with brown hair. Sgt. Morrison is a 5'10", 220-pound black male with black hair.

§ 87(2)(g)  
[REDACTED]

§ 87(4-b), § 87(2)(g)  
[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (See Board Review #22: Civilian CCRB History).
- PO Chiriboga has been a member of the service for four years and has been a subject in four previous CCRB complaints and eight allegations, none of which were substantiated.  
§ 87(2)(g)
- PO Apadula has been a member of the service for four years and has been a subject in one previous CCRB complaint and one allegation. It was not substantiated. § 87(2)(g)
- PO Sanchez has been a member of the service for four years and has been a subject in four previous CCRB complaints and seven allegations, of which one was substantiated:
  - 201606627 involved a substantiated allegation of physical force. The Board recommended that he receive command discipline B. The NYPD declined to prosecute.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on June 11, 2018. It will be included in the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date